

U.S. Patent App. Ser. No. 10/705,523

**Attorney Docket No. 14325/15** (*formerly 10191/2479B*)

Reply to Office Action of September 27, 2007

**Amendments to the Drawings:**

Applicants have added new Figure 5, as suggested. No new matter has been added and Figure 5 is supported by the present application, including the specification and claim 16. Approval and entry are respectfully requested, as is withdrawal of the objection to the Drawings.

**REMARKS**

Claims 19, 21 to 23 and 27 to 32 are canceled without prejudice, and therefore claims 16 to 18, 20, 24, 25 and 26 are now pending in the above-referenced application.

Reconsideration is respectfully requested based on the following remarks.

With respect to page two (2) of the Office Action, the drawings were objected to in the Office Action.

As to the request for a new drawing of the “method”, 37 C.F.R. § 1.83(a) (“Rule 83(a)”) is subject to 37 C.F.R. § 1.81 -- *which only requires a drawing “where necessary for the understanding of the subject matter sought to be patented”*. The Office Action has not addressed this fact. In view of the claims, the specification disclosure, and the other Figures, it is respectfully submitted that no other drawing is necessary for understanding the claimed subject matter of a *method claim* which is fully described by the specification and/or the claim itself. Any new drawing would reflect no more information than is already provided by the specification and the claims. *The M.P.E.P. also makes plain that a drawing is not necessary for a method claim.*

Nevertheless, to facilitate matters, Figure 5 has been added as suggested. No new matter has been added and Figure 5 is supported by the present application, including the specification and claim 16. Approval and entry are respectfully requested, as is withdrawal of the objection to the Drawings.

It is therefore respectfully requested that the drawings objections be withdrawn in view of the foregoing.

Claims 16, 27, and 28 stand rejected under 35 U.S.C. § 102(b) as being anticipated by United States Patent No. 5,212,831 to Chuang et al. (“Chuang I”).

While the rejections may not be agreed with, to facilitate matters, claims 19, 21 to 23 and 27 to 32 have been canceled without prejudice, and claim 16 has been rewritten.

In claim 16, as presented, uplink and downlink channels are assigned following a measurement of channel quality of each available channel. Thereafter, all the available channels are repeatedly re-measured to obtain a measure of channel quality such that if a change of channel is subsequently necessary, this can be performed using the previously obtained information.

As to applied reference, paragraph [0021] on page 3 (final sentence continuing onto the right hand col.) indicates that the base station performs the measurement of the channels for the uplink and the mobile station performs the measurement of the channels for the downlink with the assignment of the channel being performed and communicated to the other unit. Paragraph [0025]

then indicates that after the connection has been set up, the transmission power is re-measured on all possible transmission channels such that if the connection quality of the existing connection deteriorates, a channel change can be performed.

The Chuang I reference refers to an arrangement in which only the base unit or "port" scans the frequency spectrum to measure the power at the downlink frequencies (col. 12, lines 23-27). Following this measurement, the transmit frequency of the port is determined and the uplink frequency "associated with this downlink frequency" is set (col. 12, lines 30-34). Accordingly, there is no independent assignment of the uplink and downlink channel. The scanning arrangement of Chuang does not establish a connection. As indicated in the first paragraph of col. 12, it is an off-line process and is explicitly distinguished over the real-time radio access.

The Office Action has not accepted that Chuang refers to an off-line process, stating that the process also occurs in real time as part of the link access protocol. This is considered to be a misinterpretation of Chuang. As explained, the system operates on a TDM basis. Accordingly, as part of the base station set up, the base station has to determine on which frequency to operate (*see* Col. 12, lines 35-41). Further, at the bottom of col. 11, it is stated that the channel assignment is performed "when the system is installed or when growth has occurred." The frequency assignment to a base station is not concerned with establishing a connection with a mobile station. As the top of col. 12 indicates, whereas channel assignment is an off-line process, time slot assignment is a real time process. The channel assignment procedure of Chuang is not part of establishing a connection.

The Chuang II reference refers to a system in which the wireless terminal performs interference measurements for determining acceptable channels after the base station has informed it of pending data packets awaiting delivery (col. 7, lines 60-65). There is no disclosure in Chuang of a system in which a base station performs a channel measurement. Furthermore, as in Fig. 3, the base stations of Chuang are arranged to operate with aligned time slots. Such a system is therefore not one in which the base stations are operating in an uncoordinated manner, as recited in claim 1. While a feedback channel is used for informing the base station of acceptable channels, Chuang appears to be a communication system in which user data is only transmitted in one direction, from the base station to the wireless station.

As to the dependent claims, contrary to the Office Action's assertions, there does not appear to be any reference to spreading using codes in Chuang II, which discusses a FD/TD arrangement, as explained below.

Accordingly, the Chuang I reference does not identically describe every feature of claim 16, as presented, so that this claim is allowable, as are its respective dependent claims.

Claims 24 and 25 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Chuang I in view of United States Patent No. 5,093,924 to Toshiyuki et al. ("Toshiyuki").

Claims 24 and 25 depend from claim 16, as presented, and are therefore allowable for essentially the same reasons, since the further reference does not cure the critical deficiencies of the primary reference, nor is it asserted to do so.

Also, the Toshiyuki reference refers to an arrangement in which a base station selects a communication channel on the basis of a channel interference measurement and communicates this selection to the mobile station. The mobile station then performs an interference level measurement on this channel and communicates the results to the base station which decides whether a new channel is required. As such, the mobile station only measures the one channel selected by the base station and not all possible transmission channels as provided for by the presently claimed subject matter.

Claims 17-19, 26, 29, 30 and 32 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Chuang I in view of United States Patent No. 6,052,594 to Chuang ("Chuang II").

While the rejections may not be agreed with, to facilitate matters, claims 19, 21 to 23 and 27 to 32 have been canceled without prejudice, and claim 16 has been rewritten.

Claims 17, 18 and 26 depend from claim 16, as presented, and are therefore allowable for essentially the same reasons as its base claim, since the further reference does not cure the critical deficiencies of the primary reference, nor is it asserted to do so.

Claim 20 and 31 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Chuang I in view of United States Patent No. 6,442,152 to H'mimy.

While the rejections may not be agreed with, to facilitate matters, claims 19, 21 to 23 and 27 to 32 have been canceled without prejudice, and claim 16 has been rewritten.

Claim 20 depends from claim 16, as presented, and is therefore allowable for essentially the same reasons, since the further reference does not cure the critical deficiencies of the primary reference, nor is it asserted to do so.

While the Office Action asserts that H'mimy discloses channel measurement during an existing connection, this channel measurement is only of the existing connection. The H'mimy

reference specifically indicates that it is not necessary for suitable new channels to be identified in advance of a change in channel due to interference (see col. 5, line 66 to col. 6, line 10) because the new channel can be chosen based on the old channel. In order to perform the method described, an initial measurement is made of the up-link channels which are then segregated into interference bands (col. 6, lines 20-24). The mobile stations do not perform a channel measurement of all possible channels and no repeated re-measurement is performed after connection establishment.

Claims 21 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Chuang I in view of United States Patent No. 5,175,867 to Wejke et al. ("Wejke"). Claim 22 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Chuang I in view of United States Published Patent Application No. 2001/004687 to Mizoguchi ("Mizoguchi"). Claim 23 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Chuang I in view of United States Published Patent Application No. 2004/0214582 to Lan ("Lan").

While the rejections may not be agreed with, to facilitate matters, claims 19, 21 to 23 and 27 to 32 have been canceled without prejudice, and claim 16 has been rewritten.

Also, as to Wejke, it is concerned with handover between base stations and is not relevant to claim 16, as presented. As to Mizoguchi, it is concerned with the measurement of interference in the assigned channels and does not disclose measuring the channel quality of all available channels, as provided for in the context of the presently claimed subject matter. With regard to Lan, this has a filing date after the claimed priority date of the present application.

Accordingly, claims 16 to 18, 20, 24, 25 and 26 are allowable.

**CONCLUSION**

In view of the above, it is respectfully submitted that all of the presently pending claims 16 to 18, 20, 24, 25 and 26 are allowable. It is therefore respectfully requested that the objections and rejections be withdrawn, since they have been obviated. Since all issues raised have been addressed, an early and favorable action on the merits is respectfully requested.

Dated: 1/28/2008

Respectfully Submitted,

By: [Signature]

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